Federal judge bars strike action, orders SMART-TD union to police CSX railway workers “upon pain of fine, suspension or other sanction”

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A federal judge in Florida issued a Temporary Restraining Order (TRO) on July 15 barring thousands of CSX railway workers, represented by SMART-TD, from engaging in any strike, work stoppage, slowdown or sickout over the company’s new attendance policy—and ordered the union to discipline any member who defied the ban. The five-day TRO expired on July 20, after SMART-TD had complied with its orders.

The TRO, issued by Judge Wendy W. Berger of the U.S. District Court for the Middle District of Florida, came in response to an emergency motion filed by CSX Transportation after SMART-TD indicated its opposition to System Notice 502, a June 30 policy update that dramatically narrows workers’ ability to take medically necessary absences without facing termination. CSX workers have written to the *World Socialist Web Site* confirming that their locals have been polled on strike action and approved it near-unanimously, indicating overwhelming rank-and-file support for a walkout.

No strike had been called, though the union’s general committees had formally objected that the Notice constituted “an unlawful unilateral modification of the parties’ Collective Bargaining Agreement in violation of the Railway Labor Act.” When CSX demanded assurances that operations would not be disrupted, SMART-TD union officials pledged to “use every lawful means available to preserve the negotiated status quo.”

Within days, CSX was in federal court, and Judge Berger classified the dispute as “minor” under the Railway Labor Act (RLA), meaning workers are prohibited from striking and must submit to compulsory arbitration. The legal standard, as the court itself noted, requires only that the carrier’s position be “arguably justified” by the contract. Any “reasonable doubt” defaults against the workers.

CSX put its Attendance Policy into effect unilaterally on January 1, 2023. Three months later, as part of a paid sick leave agreement, SMART-TD union officials agreed to incorporate it into the collective bargaining agreement. The union hailed it as “the most lenient policy at CSX in decades,” declaring that CSX would no longer be able to change it simply by issuing a system bulletin. The Attendance Policy is a points-based system: Workers accumulate points for absences and face discipline, including termination, at 60 points.

System Notice 502, issued unilaterally by management on June 30, does not change the point totals. It changes the definitions governing when medical documentation can reduce them.

Under the new definitions, “hospitalization” means inpatient admission only; treatment at an emergency room or urgent care facility does not count as hospitalization. To qualify separately as “emergency treatment,” an outpatient visit must involve a sudden condition that “could seriously endanger health, life, organs or bodily functions” and require immediate care to stabilize the patient and prevent the condition from worsening.

“Scheduled medical appointment” requires advance notice through the company’s T&E Portal and explicitly excludes telehealth: “Teladoc and most virtual or remote consultations are not considered scheduled medical appointments.” A worker who marks off sick and then seeks routine diagnosis or treatment cannot claim it as a scheduled medical appointment. A “family member” is narrowed to a spouse, son, daughter or parent—excluding in-laws.

On top of the points system, the Notice warns that employees who incur “excessive absences under suspicious circumstances, or patterns and degrees of unavailability that indicate abuse or misuse of CSX policies are subject to discipline up to and including dismissal regardless of accumulated points.” This is a catch-all. Management can fire a worker for absence patterns it deems “suspicious” even if the worker has not hit the 60-point threshold.

This is being imposed on a workforce already stretched to the breaking point. CSX has been eliminating crew jobs and expanding geographic work zones, forcing workers into longer shifts with fewer crew changes. The railroads have posted record profits on the backs of hyper-exploited labor. The attendance policy is aimed at maximizing the extraction of labor from every worker, making it impossible to be sick, to care for family, or to have any life outside the company's scheduling demands.

The legal mechanism deployed against CSX workers is the same one used against 17,000 BNSF railway workers in January 2022, when Judge Mark Pittman issued a near-identical TRO blocking a strike over the "Hi-Viz" point-based attendance policy. In both cases, the court relied on the Railway Labor Act's distinction between "major" and "minor" disputes—a framework that functions as a juridical trap.

Judge Berger did not merely prohibit SMART-TD from striking but ordered the union to "immediately instruct in writing all SMART-TD members employed by Plaintiff to refrain from self-help"; notify all members "by the most expeditious means possible" of the order's contents; direct members to "immediately cease and desist all exhortations or communications encouraging same upon pain of fine, suspension, or other sanction by SMART-TD"; "invoke union discipline and punish individual officers, agents, employees, or members who engage in any conduct enjoined by this Order"; post the order on all bulletin boards, websites, hotlines, and "other methods of electronic communication used by SMART TD to communicate with its represented employees"; and report to the court by July 17 on steps taken to comply.

The Railway Labor Act, enacted in 1926, is an anti-worker law which has served to all but ban strikes on American railroads for the past century. If a dispute is ruled "minor," strikes are illegal and workers must submit to compulsory arbitration before the National Railroad Adjustment Board, a process that can drag on for years while the company's policy remains in effect.

As BNSF's own lawyers boasted in 2022, the unions have "never prevailed" under this framework in 33 years. This record follows from a legal standard weighted heavily in the carriers' favor.

Compliance with these and other legal restrictions on workers' rights under the RLA amounts to the integration of the union apparatus into a labor police force over its own members. The union is required to suppress not only strikes but communications encouraging strikes and to punish members who refuse to be silenced.

In fact, the union bureaucracy has accepted and defended this system for decades. SMART, the parent organization of SMART-TD, reported nearly $450 million in assets to the Department of Labor, while its leading officers received salaries of between $341,000 and $462,000 in 2025. The TRO makes this relationship explicit and legally enforceable.

The decisive confirmation came in the 2022 national contract struggle, which pitted 120,000 railroad workers not only against the carriers but against the Biden White House, Congress and the union apparatus. Members of several unions voted by margins above 99 percent to authorize strike action. Biden then appointed Presidential Emergency Board 250, whose recommendations failed to provide paid sick days or abolish the carriers' punitive attendance regimes. A last-minute agreement brokered at the White House adopted this pro-company framework as the final RLA cooling-off period was expiring. Even after the RLA's restrictions had been exhausted, the unions kept workers on the job.

SMART-TD President Jeremy Ferguson was among the most vociferous defenders of this surrender. Ferguson declared that the failure to strike was "not due to the RLA, but rather because of the commerce clause contained within the Constitution of the United States of America." He presented Congress's constitutional power to regulate interstate commerce—and its anticipated intervention for the carriers—as though it already nullified workers' right to strike. Once the RLA itself could no longer be invoked, he supplied a still broader constitutional pretext for submission.

Workers rebelled. The Railroad Workers Rank-and-File Committee (RWRFC) was founded in September 2022 in collaboration with the International Workers Alliance of Rank-and-File Committees (IWA-RFC). It organized informational pickets, online meetings involving hundreds of railroaders and a nationwide campaign for strike action and rank-and-file control. The White House-backed agreement was rejected by SMART-TD conductors and yardmen and by workers in three other unions. The union bureaucracies staggered ballots and repeatedly extended strike deadlines, buying time for the state to intervene. At Biden's request, Congress passed and Biden signed legislation imposing the rejected contract and blocking a national strike.

The near-unanimous strike votes at CSX show that rank-and-file railroad workers are still determined to fight. But that determination must be directed against the entire framework of "labor control" on the railroads, in which the union bureaucracy is acting as the company police. What is required is the development of rank-and-file committees, linked through the RWRFC across carriers and crafts, to transfer decision-making power to workers themselves, prepare collective action and mobilize the broadest support throughout the working class.